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OFFICE OF PETITIONS

In re Application of

Richard Abinal

Application No. 10/616,315

Filed: July 9, 2003

Attorney Docket No. P10-1302 US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on November 18, 2005.

The petition is **granted**.

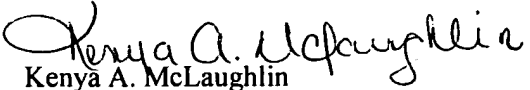
This application was held abandoned on February 24, 2005, after no reply was received to the final Office action mailed November 23, 2004. The notice set forth a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on October 5, 2005. The instant petition was filed on November 18, 2005. Petitioner maintains that the notice of November 23, 2004, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3700, GAU 3723 for further processing.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions